

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Petition of Verizon New England Inc. for Arbitration
of an Amendment to Interconnection Agreements with
Competitive Local Exchange Carriers and Commercial
Mobile Radio Service Providers in Massachusetts
Pursuant to Section 252 of the Communications Act
of 1934, as Amended, and the *Triennial Review Order*

D.T.E. 04-33

VERIZON MASSACHUSETTS'
MOTION FOR LEAVE TO AMEND ITS PETITION FOR ARBITRATION

Verizon Massachusetts ("Verizon MA") requests leave to amend its Petition for Arbitration ("Petition") submitted to the Department on February 20, 2004, pursuant to 220 C.M.R. § 1.04(3), to name additional carriers as parties to the arbitration. This Motion is filed in accordance with the Department's December 15, 2004, *Procedural Order*, in which the Department allowed Verizon MA to "seek to amend its Petition to name" as parties to the arbitration Neutral Tandem, Vylink, and WilTel. *Procedural Order*, at 26 n. 30. In support of this request, Verizon MA states as follows:

1. Both Neutral Tandem and Vylink adopted their interconnection agreements ("ICAs") with Verizon *after* the Petition was filed. Specifically, Neutral Tandem and Vylink adopted their ICAs on April 20, 2004, and March 3, 2004, respectively. Since these two carriers had no effective ICA with Verizon until their adoption letters were executed, there was no basis for including them in the original Petition. Accordingly, Verizon MA's request to amend its

Petition by adding Neutral Tandem and Vylink to its list of parties to this arbitration is justified and should be allowed.¹

2. Regarding WilTel, Verizon MA's Petition lists Williams Local Network LLC ("Williams") as having an ICA that might appear to require amendment. Verizon MA has confirmed that Williams changed its name to WilTel Local Network LLC in June 2004 in Massachusetts - approximately four months after Verizon MA filed its Petition.² Accordingly, Verizon MA's request to amend its Petition to reflect the carrier's current name - WilTel - is justified and should be granted.

3. Granting this Motion would not prejudice any party since the Department just established the schedule in this proceeding yesterday. Moreover, amending Verizon MA's Petition to include these three carriers in the arbitration is reasonable and appropriate given the fact that their ICAs might be construed to require an amendment in order for Verizon to exercise its right to cease providing UNEs (or certain UNEs) upon termination of Verizon's unbundling obligation. Including these carriers now will prevent confusion, disruption, and/or duplicative proceedings later.

¹ Verizon reserves and intends to exercise (or to continue exercising as the case may be) any rights it may have under Neutral Tandem's, Vylink's, and WilTel's interconnection agreements and adoption letters to discontinue providing one or more specific unbundled network elements ("UNEs") upon notice without amending the agreements. Verizon does not, by prosecuting this arbitration, waive the right to argue that the issuance of the mandate in *USTA II* does not generate a "change of law" under the terms of the parties' agreements. Nor does Verizon waive the argument that it cannot be required under its agreements with these CLECs to continue to provide UNEs eliminated by the *TRO* or *USTA II*. This arbitration should nevertheless proceed as to those CLECs in order to eliminate any doubt regarding Verizon's right to cease providing such UNEs.

² It should be noted that in its Notice of Withdrawal ("Notice") filed August 20, 2004, Verizon MA correctly included WilTel on Exhibit B as a carrier with an ICA to be amended. However, Williams - which is inadvertently listed on Exhibit A -- should be removed entirely from that Notice.

WHEREFORE, for the foregoing reasons, the Department should grant this Motion and permit Verizon MA to amend its Petition to include Neutral Tandem, Vylink, and WilTel.

Respectfully submitted,

VERIZON MASSACHUSETTS

By its attorneys,

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